



ENVIRONMENTAL PROTECTION AGENCY

6560-50-P

[FRL-9921-07-Region 6]

Draft National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges from Horse, Cattle and Dairy Concentrated Animal Feeding Operations (CAFOs) in New Mexico (except Indian Country)

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed permit reissuance.

SUMMARY: Environmental Protection Agency (EPA) Region 6 Water Quality Protection Division is today proposing for public comment the reissuance of a National Pollutant Discharge Elimination System general permit (NMG010000) for discharges from eligible owners/operators of existing concentrated animal feeding operations (CAFOs), in New Mexico, except those discharges on Indian Country. CAFOs discharging on Indian Country would be required to apply for an individual permit.

This permit was originally issued with an effective date of September 3, 2009, and an expiration date of September 2, 2014. Conditions from the 2009 permit are continued with the following changes proposed as part of this reissuance: (1) removing eligibility for coverage for “New sources” under the proposed permit, (2) adding on-site rainfall measurement and record keeping, and (3) adding requirement for paperless submittal of application documents (NOIs and NMPs).

DATES: Comments must be submitted in writing to EPA on or before **[60 DAYS AFTER PUBLICATION in the Federal Register]**.

ADDRESSES: Comments should be submitted to Ms. Evelyn Rosborough via email: rosborough.evelyn@epa.gov, or may be mailed to Ms. Evelyn Rosborough, Environmental Protection Agency, Water Quality Protection Division (6WQ-NP), 1445 Ross Ave., Suite 1200, Dallas, TX 75202.

DATES: Public Meeting: An informal public meeting is scheduled. The meeting will include a presentation on the proposed permit followed by the opportunity for questions and answers. Written, but not oral, comments for the administrative record will be accepted at the public meeting.

DATE: February 10, 2015

TIME: 2 pm to 4 pm

PLACE: Eastern New Mexico State University - Roswell, Occupational Technology Center, Seminar Room 124, 20 West Mathis, Roswell, New Mexico, 88202-6000

Public Hearings: No public hearing is scheduled at this time; however, interested persons may request a public hearing pursuant to 40 CFR 124.12 concerning the proposed permit. Requests for a public hearing must be sent or delivered in writing to the same address as provided above for public comments prior to the close of the comment period. Requests for a public hearing must state the nature of the issues proposed to be raised in the hearing. Pursuant to 40 CFR 124.12, EPA shall hold a public hearing if it finds, on the

basis of requests, a significant degree of public interest in a public hearing on the proposed permit. If EPA decides to hold a public hearing, a public notice of the date, time and place of the hearing will be made at least 30 days prior to the hearing. Any person may provide written or oral statements and data pertaining to the proposed permit at the public hearing.

SUPPLEMENTARY INFORMATION:

A copy of the proposed permit, fact sheet, and this Federal Register Notice may be found on the EPA Region 6 Web site: <http://www.epa.gov/region6/water/npdes/cafo/index.htm>, or obtained by contacting Ms. Rosborough via email at rosborough.evelyn@epa.gov or 214-665-2145. The Agency's current administrative record on the proposal is available for examination at the Region's Dallas offices during normal working hours by providing Ms. Rosborough 24 hours advance notice. When the final general permit is issued, notice will be published in the Federal Register. The final general permit will be effective on the date specified in the Federal Register and expires five years from that date.

Other Legal Requirements

A. State Certification. Under section 401(a)(1) of the CWA, EPA may not issue an NPDES permit until the State in which the discharge will occur grants or waives certification to ensure compliance with appropriate requirements of the CWA and State law. EPA will seek certification from the New Mexico Environment Department prior to issuing a final permit.

B. Endangered Species. Endangered Species Act Section 7(a)(2) consultation between EPA and the US Fish and Wildlife Service concluded in May 29, 2009, with USFWS concurring with EPA's biological evaluation that reissuance of the 2009 New

Mexico CAFO general permit “might affect but would be unlikely to adversely affect” several aquatic and aquatic dependent species federally listed in the state. This draft permit continues those conditions of eligibility for applicants in Bernalillo, Chavez, Eddy, Sandoval, San Juan and Valencia Counties that were developed in consultation and made part of the 2009 general permit. EPA has reviewed listings since 2009 of new species and critical habitat and has determined that reissuance of the permit with the prior agreed conditions is not likely to adversely affect any listed threatened or endangered species or designated critical habitat. EPA will meet its responsibility to fulfill the section 7 of the ESA requirements prior to reissuance of this general permit.

C. Historic Preservation. EPA determined, under Section 106 of the National Historic Preservation Act of 1966 (NHPA), that issuance of the 2009 general permit was a federal undertaking without adverse effects. EPA finds no changes to this determination and will ensure that its NHPA Section 16 obligation is fulfilled regarding reissuance of the general permit.

E. Regulatory Flexibility Act. The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., requires that EPA prepare a regulatory flexibility analysis for regulations that have a significant impact on a substantial number of small entities. The permit reissuance proposed today is not a “rule” subject to the Regulatory Flexibility Act. EPA prepared a regulatory flexibility analysis on the promulgation of the 2003 NPDES Permit Regulation and Effluent Limitation Guidelines and Standards for concentrated animal feeding operations (CAFOs) on which many of the permit’s effluent limitations are based. In 2013, EPA completed review of the Guidelines and Standards pursuant to section 610 of the Regulatory Flexibility Act (RFA) and concluded that (1) there is a continued need for

the CAFO regulations, and (2) revisions to minimize the regulations' impacts on small entities are not warranted at this time.

Authority: Clean Water Act, 33 U.S.C. 1251 et seq.

Dated: December 18, 2014.

William K. Honker,
Director, Water Quality Protection Division,
EPA Region 6.

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